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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,098	01/18/2001	Michael Clary	PURRING-PA-2	8219
7590	12/08/2003		EXAMINER	
Royal W. Craig Law Offices of Royal W. Craig Suite 153 10 NORTH CALVERT STREET Baltimore, MD 21202			VU, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 12/08/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

SV

Office Action Summary

Application No.

09/765,098

Applicant(s)

CLARY ET AL.

Examiner

Stephen A Vu

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Geschwender'214 in view of Snyder and Spease et al.

Geschwender'214 shows an articulating chair (1) comprising a knockdown frame having a pair of separate U-shaped frame portions (5,7), wherein one is a seat frame portion and the other is a backrest frame portion. A pair of generally L-shaped connectors (9) are adapted to fit with the ends of the frame portions to form a rigid L-

Art Unit: 3636

shaped frame. A removable cover (11) is disclosed to fit over the frame. The cover has a top panel section sewn against a bottom panel section, a side panel section sewn, and a cushion enclosed in between the sections. Geschwender'214 discloses the claimed invention except for the U-shaped frame portions to have ends that are chamfered and the U-shaped frame portions and L-shaped connectors to be Zinc plated.

Snyder teaches a plurality of rod members (35), each having a chamfered end (36) to facilitate receipt of the rod members into the sockets (14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the U-shaped frame portions of Geschwender'214's chair to have chamfered ends as taught by Snyder in order to facilitate receipt of the frame portions within the L-shaped connectors.

In addition, Spease et al teach a remote control assembly comprising an elongated member (28) formed from a zinc plated rod (see col. 5, lines 12-13) for functional durability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the U-shaped frame portions and L-shaped connectors of Geschwender'214's chair be Zinc plated to provide functional durability under the stress of use.

Response to Arguments

Applicant's arguments filed September 29, 2003 have been fully considered but they are not persuasive.

Remarks

The examiner has reviewed and considered the applicant's comments in the Amendment, filed on September 29, 2003. It's the examiner's position that claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Geschwender'214 in view of Snyder and Spease et al. The applicant has argued that the prior art of "Geschwender'214 does not teach or suggest chamfered ends or zinc plating". The examiner disagrees with the applicant's argument.

The examiner has applied the primary reference of Geschwender'214 to show the structural components of the chair with the addition of the secondary references of Snyder and Spease et al for teaching the concept of the end members (35) being chamfered (36) and a member (28) formed from a zinc plated rod, respectively. One of ordinary skill in the art at the time the invention can modify the U-shaped frame portions of Geschwender'214's chair to have chamfered ends as taught by Snyder in order to facilitate receipt of the frame portions within the L-shaped connectors. In addition, one of ordinary skill in the art can manufacture the U-shaped frame portions and L-shaped connectors of Geschwender'214's chair via Zinc plating in order to provide functional durability under the stress of use.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


PETER R. BROWN
PRIMARY EXAMINER


Stephen Vu
December 2, 2003